

**STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD**

GROSSMONT UNION HIGH SCHOOL)	
DISTRICT, Employer)	
)	
and)	
)	
GROSSMONT STUDENT SERVICES)	
ASSOCIATION, Employee Organization)	Case Nos. LA-R-185
)	LA-R-254
and)	
)	EERB Decision No. 11
GROSSMONT EDUCATION ASSOCIATION,)	
CTA/NEA, Employee Organization)	March 9, 1977
)	
and)	
)	
GREATER GROSSMONT FEDERATION OF)	
TEACHERS LOCAL 1903, CFT/AFT,)	
AFL-CIO, Employee Organization)	
)	

Appearances: Paterson and Taggart by J. Michael Taggart, Attorney, for Grossmont Union High School District; George E. Dalton, Attorney, for Grossmont Student Services Association; Knutson, Tobin, Meyer, and Shannon, by John Meyer, Attorney, and Office of the General Counsel of the California Teachers' Association, by Charles Gustafson, Attorney, for Grossmont Education Association; and Van Bourg, Allen, Weinberg, and Roger, by Robert Bezemek, Attorney, for Greater Grossmont Federation of Teachers.

Before Alleyne, Chairman; Cosssack and Gonzales, Members.

OPINION

PROCEDURAL HISTORY

On April 1, 1976, the Grossmont Student Services Association (GSSA) filed with the Grossmont Union High School District a request for recognition as the exclusive representative of counselors, psychologists, school nurses, social workers, and psychometrists.¹ Also on April 1, 1976, the Grossmont Education Association, CTA/NEA (GEA) filed with the district a request for

¹ At the request for the district and without objection from any party at the hearing, the psychometrist position was deleted from GSSA's request for recognition since no such position exists in the district.

recognition as the exclusive representative of all certificated employees excluding, among others, hourly adult school teachers, counselors, psychologists, social workers, and school nurses.² The district posted a notice of GEA's request for recognition on April 8, 1976. GEA amended its request for recognition on April 9, 1976 to also excluded day-to-day substitute teachers. The district posted a second notice reflecting GEA's exclusion day-to-day substitute teachers on April 19, 1976. On May 7, 1976, the Greater Grossmont Federation of Teachers, Local 1930, CFT/AFT, AFL-CIO (GFT) filed an intervention in a unit of all probationary and permanent certificated employees, excluding counselors psychologists, social workers, school nurses, hourly adult school teachers and day-to-day substitute teachers.³ At the hearing GFT amended its interventions to specifically include temporary teachers on contract for one or more semesters. The district concluded that none of the units sought were appropriate, declined to recognize either GSSA, GEA or GFT as an exclusive representative, and notified the Educational Employment Relations Board of its decision on May 11, 1976. The district contends that the appropriate unit is one which includes all non-management certificated employees including counselors, psychologists, social workers, and school nurses, and which excludes hourly adult school teachers, day-to-day substitute teachers, and temporary teachers who work less than 75 percent of the school year.

A hearing was held on August 13, 1976, before a hearing officer of the Educational Employment Relations Board.⁴

² Also excluded were the following classifications: Assistant Director Personnel; Assistant Director Special Education; Assistant Superintendent, Business; Assistant Superintendent, Personnel; Assistant Superintendent, Planning Data & Instructional Support; Associate Superintendent; Chief, Accounting; Chief, Building & Grounds; Chief, Classified; Chief, Data Processing; Chief Driver Training; Chief, Food Services; Chief, Purchasing; Chief, Transportation; Coordinator; Director I Continuation; Director I Adult School; Director II Data Systems; Director II Development & Evaluation Support; Director I Pupil Personnel Services; Director II Regional Occupation Program; Director I Special Education; Director II Special Projects; Director II Vocational Education; Director II Vocational Nursing; Plant Managers; Principals; Superintendent; and Vice Principals.

³ At the hearing GEA raised the contention that GFT's intervention was not timely. We disagree. GEA substantially amended its original request for recognition on April 9, 1976 and the district posted the requisite notice of the amended request for recognition on April 19, 1976. GFT intervened on May 7, 1976--the fifteenth working day following the posting of the second notice. See Government Code Section 3544.1(b).

⁴ At the hearing GSSA moved to dismiss the district's challenge to the appropriateness of the unit. GSSA argued that

ISSUES

There are two issues presented for determination in this case: (1) whether counselors, psychologists, school nurses and social workers should be included in a unit of certificated employees or whether they constitute a separate appropriate unit; and (2) whether temporary teachers who work on a contractual basis for one semester or more should be included in a unit of certificated employees.

DISCUSSION

In Grossmont Union High School District covers an area of 460 square miles. It has a total average daily attendance of approximately 26,444 students. Of the number approximately 24,466 are students enrolled in the regular high school program, grades 9 through 12, and approximately 1,978 are students enrolled in the adult school program.⁵ There are 11 sites, on which are distributed nine comprehensive high schools, two continuation schools, the adult education program and a special

since the district failed to timely notify the Regional Office of the EERB pursuant to then-existing EERB Rule 30022 that it doubted the appropriateness of GSSA's requested unit, the district is required to grant voluntary recognition under Section 3544.1 of the Act. The hearing officer denied the motion.

Former Rule 30022 established the time within which an employer should notify the EERB of its response to a request for recognition. Only if the employer fails to act upon the request within 30 days, or denies it, is the employee organization free to petition the EERB pursuant to Section 3544.5(b) of the Act. The latter section contemplated that an employer may refuse altogether to respond to a request for recognition. Had the Legislature intended that an employer would be obligated to recognize and negotiate with an employee organization merely by failing to notify the EERB of its response to a request for recognition, the Legislature would not have included Section 3544.5(b) in the Act.

Moreover, an employee organization cannot become an exclusive representative unless it is "...recognized pursuant to Section 3544.1 or certified pursuant to Section 3544.7..." Government Code Section 3543. Section 3544.1 expressly provides that an employer is not required to grant a request for recognition where, as here, the employer "...doubts the appropriateness of a unit." Government Code Section 3544.1(a). Accordingly, the hearing officer properly denied the motion.

⁵ Annual Apportionments Report, California State Department of Education, Form J-19 (July 1976).

education program. The district employs approximately 995 certificated employees.

With respect to the unit placement of the counselors, psychologists, school nurses and social workers, GSSA and GFT assert that these persons lack a community of interest with other certificated employees. GSSA further contends that its prior representation of these employees as well as their prior inadequate representation by predominantly teacher organizations support its position. GEA takes no position on their unit placement. The district argues that these employees share a community of interest with the overall certificated unit and further that a separate unit would impair its efficiency of operation.

With respect to the unit placement of temporary teachers who work on a contractual basis one semester or more, GFT and GEA would include them in the overall certificated unit while the district would exclude those who work less than 75 percent of the school year. GSSA takes no position on this issue.

Applying the criteria of Government Code Section 3545(a)⁶ to the case at hand, we conclude that counselors, psychologists, school nurses and social workers should be included in the overall unit with other certificated employees. We further conclude that temporary teachers who work on a contractual basis for one semester or more should be included in the overall unit.

Counselors, Psychologists, School Nurses and Social Workers

I

Counselors, psychologists, school nurses and social workers share a community of interest with other certificated employees. There are approximately 85 persons in these job classifications: 62 counselors, 11 psychologists, 10 school nurses and two social workers. They are described by Education Code Section 321(e) as pupil services employees. Other pupil services employees enumerated in the same Education Code section are inschool librarians, assistant inschool librarians, audiovisual personnel, guidance and welfare personnel, attendance personnel, and all other certificated personnel performing pupil personnel services, health or librarian services. There is no dispute concerning the inclusion of all of these latter pupil services employees in the overall certificated unit.

⁶ "3545 (a) In each case where the appropriateness of the unit is an issue, the board shall decide the question on the basis of the community of interest between and among the employees on their established practices including, among other things, the extent to which such employees belong to the same employee organization, and the effect of the size of the unit on the efficient operation of the school district."

The four disputed pupil services classifications have many things in common with teachers and other certificated persons included in the overall unit. All are required to attend faculty and staff meetings. All receive the same fringe benefits, including sick leave, vacation and sabbatical leave holidays, retirement benefits, including sick leave, vacation and sabbatical leave, holidays, retirement benefits, life, medical and dental insurance, vision care and accidental death and disability insurance. All are entitled to tenure.

With the exception of one psychologist and the two social workers, all employees in the disputed classifications are assigned to an individual school. As such, they are supervised by the school principal. The one psychologist and two social workers who are centrally located are supervised by the Director of Pupil Personnel Services, who also supervises others included in the unit by stipulation of the parties.

School principals have either the determinative say or an extremely strong voice in the selection for hire of teachers, counselors, and ten of the 11 psychologists.

The certificated salary schedule provides the basic context of the wages of all non-managerial, non-supervisory certificated employees. The wages paid to all four classifications in dispute are determined by a factor known as "ratio to placement." "Ratio to placement" measures the relationship of the classification to regular teachers in terms of time spent on the job and responsibility. Each employee is thus first placed on the regular salary schedule; the salary reflected by placement on the certificated salary schedule is modified according to the "ratio to placement" factor of that employee's classification. Thus, the basic salary of employees in the disputed classifications is determined in the same manner as all other employees in the unit. Furthermore, there are several other pupil service classifications included in the unit whose actual salary is determined by application of the "ratio to placement" factor.

All certificated employees are evaluated pursuant to the Stull Act.⁷ While there are some differences in the format and criteria of evaluation between teachers and the four disputed classifications, the same difference exist between the teachers and other pupil services employees included in the unit. Moreover, we view the similarities between the purposes and format of the Stull Act evaluations of teachers and other certificated employees are more significant than the differences. Thus, the guidelines established in the Stull Act are equally applicable to all teaching and non-teaching certificated employees; all evaluations are required to be in writing; and the

⁷ Education Code Article 5.5, Sections 13485 through 13490 inclusive.

frequency of evaluation is the same for all certificated personnel.

While the credential requirements for teachers are different than those of other non-teacher certificated employees, we think they possess more similar than dissimilar components.⁸ Generally, all certificated employees are required to have a bachelor or higher degree plus specialized training. For teachers, the specialized training includes a fifth year of study and an approved program of professional preparation. For those in the four disputed pupil services classifications as well as the other nondisputed pupil services classifications, the specialized training includes either a valid state-issued license, certificate or registration and/or a bachelor or higher degree and specialized professional preparation. Thus, any credential differences between teachers and other certificated personnel are no greater than those between teachers and other certificated personnel are no greater than those between teachers themselves or between the various pupil services classifications themselves.

There is substantial interaction between teachers and persons in the four disputed classifications. Psychologists have daily contact with teachers at the high schools. Between 20 and 40 percent of this contact is in connection with their responsibilities for educationally handicapped children. The Educationally Handicapped Program includes determination of student qualification for, placement in the removal from the program through a committee composed of a psychologist, and E.H. (educationally handicapped) teacher, a nurse, an administrator and a counselor. The remaining 60 to 80 percent of their contact with teachers is in connection with individual students who have been referred to them for services and their consultation with teachers about the progress of those students. Nurses regularly have contact with teachers in a number of ways: processing and validating excuses from physical education classes; collecting student medical records and informing teachers of medical disabilities; as a resource for teachers in the required health course; serving on the educationally handicapped committee; and by providing advice, in conjunction with a physical education teacher, a doctor, an administrator and a counselor, about student placement in adaptive physical education classes. Further, at least one nurse provided 35 specialized medical lectures on such topics as social living, health and biology. Social workers have contact with teachers when relaying information about the home environment of students with unusual problems. Finally, counselors have daily interaction with teachers in the course of performing their duties. Counselors initially identify student needs in planning programs of studies. Counselors interact with teachers in the classroom when they participate in classroom conducted group projects. They also

⁸ See Education Code Sections 13130 and 13136.

interact with teachers when a teacher believes that a student is improperly placed in a class, when a particular curriculum path of a student is discussed and in meetings with parents concerning student problems.

Therefore, the record as a whole establishes that teachers and the four disputed classifications share common purposes and goals in their mutual interaction with each other and the community they serve. We are mindful that there are some minor differences between teachers and the four disputed classifications, such as the length of their work day and work year.⁹ However, we do not view these differences as sufficient to establish a separate community of interest.

II

While we conclude that the four disputed classifications do not possess a separate community of interest sufficient to establish a separate appropriate unit, we must also consider whether either the established practices of these employees or the efficient operation of the district would warrant a contrary conclusion.

We have previously held that where there was no evidence that representation occurred in a bilateral rather than a unilateral context we would give little weight to the established practices of employees which antedated the passage of this Act.¹⁰ In this case, under the "meet and confer" process in the Winton Act,¹¹ certificated employees were represented by a Certificated Employees Council (CEC). Since at least 1973, GEA has held a majority of the nine CEC seats; GSSA has historically held one seat. Each of the three employee organizations in this proceeding claim to have represented employees in the four disputed classifications in their dealings with district.

Uncontradicted testimony at the hearing established that employees in the four disputed pupil services classifications have become disenchanted with their representation by GEA. Approximately 64 of them have signed GSSA "signature cards" while 11 signed GEA "signature cards." There is no evidence on the

⁹ Assignments for counselors, psychologists and nurses begin 30 minutes before and end 30 minutes after the standard teaching assignment; teachers have a 15 minute preparation period both before and after the standard teaching assignment. Teachers and nurses work 182 days; counselors work 188 days; and psychologists work 212 days.

¹⁰ Sweetwater Union High School District, EERB Decision No. 4, November 23, 1976.

¹¹ Education Code Sections 13080-13090, repealed July 1, 1976 by Section 1, Chapter 961 of the Government Code.

record about the designation contained on either the GSSA or GEA "signature cards." GEA altered its "Proposed Contract" dated March 8, 1976 to honor GSSA's request to separately negotiate with the district by deleting from Article 1, "Recognition," reference to the four disputed classifications. Apparently, however, the "ratio-to-placement" favor, previously explained, contained in Appendix III of the "proposed contract" lists counselors in Section 2. Thus, while GEA amended its bylaws sometime around April, 1976, to specifically decline to represent the four disputed classifications, it apparently continued to seek to negotiate regarding the salary to be paid at least one of these classifications.

The United States Supreme Court has stated:

"Naturally the wishes of employees are a factor in a [National Labor Relations Board] conclusion upon a unit. They are to be weighed with the similarity of working duties and conditions, the character of the various plants and the anticipated effectiveness of the unit in maintaining industrial peace through collective bargaining."¹²

In all of the circumstances here, we do not find either GEA's recent change in its bylaws or the failure of either GEA or GFT to seek to represent the employees in the four disputed classifications as sufficient to outweigh the clear community of interest these employees share with those of the overall certificated unit. Further, the obligation of an exclusive representative to fairly represent each and every employee in the appropriate unit exists under this Act¹³ notwithstanding any exclusionary language contained in the representative's bylaws.

¹⁴ All of the disputed classifications possess a functional coherence and interdependence as an integral part of the larger unit. Further, in the instant case it is clear that GSSA desires to include some, but not all, of a group of employees performing similar work and having similar interests, inasmuch as it has requested a unit comprised of only part of the district's pupil services employees.¹⁵

¹² Pittsburgh Plate Glass Co. v. NLRB, 313 U.S. 146, 8 LRRM 425 (1941).

¹³ Government Code Section 3544.9

¹⁴ Steele v. Louisville & Nashville Railroad, 323 U.S. 192, 15 LRRM 852 (1944).

¹⁵ In agreeing with the reasoning and conclusion in this case, Chairman Alleyne does not rely at all upon the obligation of an exclusive representative to fairly represent employees in the unit. Instead, he relies primarily on the strong community of interest between pupil services employees and other certificated employees, particularly their direct and

Finally, there is no suggestion in the record that the unit as we have determined it in this case would in any way impair the efficiency of the district's operation, since we have found an overall unit to be appropriate.

Temporary Teachers On
Contract for One Semester or More

In this district temporary teachers are those who hired on a contract for one semester or more. During the 1975/76 school year the district employed approximately 30 temporary teachers.

We conclude here, as we did in Belmont Elementary School District,¹⁶ that temporary teachers on a contract for one semester or more share a sufficient community of interest with other certificated employees to be included in the certificated unit. They are paid on the basis of the same salary schedule as regular teachers, receive the same fringe benefits and are supervised in the same fashion and by the same persons. They are expected to report to work every day just as are all other certificated personnel. They are subject to all the district's policies and procedures. There is no difference in salary, applicable personnel policies or application of fringe benefits between temporary teachers who work one semester and those who work 75 percent of the school year. Temporary teachers who work 75 percent of the school year or who work one semester because of a decline in enrollment are entitled to reemployment if a vacancy exists. The district, although not required to do so, evaluates all temporary teachers eligible for reemployment.

There was no evidence offered concerning the past practices of these employees or the effect of their unit placement on the efficient operation of the district. Accordingly, we give these criteria no weight in determining the appropriate negotiating unit.

ORDER

The Educational Employment Relations Board directs that:

1. The following unit is appropriate for the purpose of meeting and negotiating, provided an employee organization becomes the exclusive representative:

Included: All certificated employees, including counselors, psychologists, school nurses, social workers and temporary teachers who work on a contract basis one semester or more.

interdependent interest in the welfare of students.

¹⁶ EERB Decision No. 7, December 30, 1976.

Excluded: All other employees, including day-to-day substitute teachers, hourly adult school teachers, managerial employees, supervisory employees, and confidential employees.

2. With ten days after the employer posts the notice of this decision, the employee organizations shall inform the Regional Director whether or not they wish to proceed to an election in the unit found appropriate. If an employee organization wishes to proceed to an election, it shall demonstrate to the Regional Director at least 30 percent support in the above unit. The Regional Director shall conduct an election at the end of the posting period if (1) more than one employee organization qualifies for the ballot, or (2) if only one employee organization qualifies for the ballot and the employer does not grant voluntary recognition.

By: Jerilou H. Cossack, Member

Reginald Alleyne, Chairman

Dated: March 9, 1977

Raymond J. Gonzales, Member, dissenting in part:

I respectively dissent, in part, from the majority opinion in this case concerning its disposition of pupil personnel services employees (PPS). As I indicated in my concurring opinion in Los Angeles Unified School District,¹⁷ I was not inclined to view that case as having precedential value because of the procedural manner in which it reached the Board. In this case, the facts are not only distinguishable from Los Angeles Unified on a procedural basis but also differ in the application of the community of interest and established practices criteria set forth in Government Code Section 3545(a). Thus, I am persuaded that a separate unit of counselors, psychologists, school nurses and social workers warranted.

I note, preliminarily, the majority opinion's conclusion that it is indisputable that other employees remain in the larger unit with teachers. I think a more accurate statement is that the record is inconclusive as to which, if any, PPS employees remain in the larger proposed unit being sought by the Grossmont

¹⁷ See EERB Decision No. 5, November 24, 1976, where counselors were the only category of employees being sought as a separate unit. In the present case, while three other categories of employees are being separately sought in a proposed unit, counselors constitute approximately 75 percent of the employees in that group.

Education Association (GEA) and the Greater Grossmont Federation of Teachers (GFT). First, aside from librarians, to whom there is but one passing reference in the record, there is no evidence on other PPS employees remaining in the larger unit who meet the definition set forth in Education Code Section 321(e).¹⁸ Second, regarding librarians themselves we have little significant testimony such as a job description, salary, and other factors to help us evaluate their status in terms of the community of interest test. Finally, other certificated personnel who are not titled counselors per se (i.e., CETA Counseling and Placement Specialist, Guidance Specialist-VEA Pard D, and ROP Program Specialist nevertheless perform direct career counseling services for the students and are arguably being sought by GSSA since its petition for recognition included support staff for special programs.

In any case, my colleagues' reliance on the probability that other pupil personnel services employees remain in an overall unit and that therefore a definite community of interest exists between and among all certificated employees is misplaced. In Foothill-DeAnza Community College District,¹⁹ we allowed a separate unit of "skilled trades and maintenance" employees which did not include food services people, noting that they were not sought by the intervenor in that case. In previous cases, we included food services personnel with an "operations-support services" unit on the basis of community of interest factors.²⁰ Here, the facts are analogous. The Grossmont Student Services Association (GSSA) only seeks to represent counselors, nurses, social workers, and psychologists. Thus, the majority's fleeting references to alleged common interest between alleged PPS employees in a larger unit and those employees sought by GSSA is irrelevant to a discussion of whether those employees sought by GSSA should be included in an overall unit.

In considering the community of interest criterion set forth in Government Code Section 3545(a), we have in preceding

¹⁸ This Education Code section provides that a pupil services employee is not only one who holds a standard designated services credential, but who also "performs direct services to pupils." The district's job descriptions include the positions of catalogue librarian, assistant catalog librarian, and district media specialist. All of these, according to their descriptions, do not provide direct services to the pupils, nor do they work at the local schools.

¹⁹ EERB Decision No. 10, March 1, 1977.

²⁰ Sweetwater Union High School District, EERB Decision No. 4, November 23, 1976; Fremont Unified School District, EERB Decision No. 6, December 16, 1976; and San Diego Unified School District, EERB Decision No. 8, February 18, 1977.

decisions cited the landmark decision, Kalamazoo Paperbox Corporation.²¹ In that case, the National Labor Relations Board (NLRB) set forth the following considerations for determining whether or not a substantial difference in interests in the working conditions of employees exists:

...a difference in method of wages or compensation; different hours of work; different employment benefits; separate supervision, the degree of dissimilar qualifications, training, and skills; differences in job functions...; the infrequency or lack of contact with other employees; lack of integration with the work functions of other employees or interchange with them...²²

With the exception of the variable regarding integration of work functions, which necessarily results in teacher-PPS employee contact, the facts point to major differences in the remaining factors listed in Kalamazoo.

As noted by my colleagues, differences exist regarding qualifications for the instructional and noninstructional positions in terms of credentialing requirements. However, the majority fails to point out that, as is commonly known, persons in the categories GSSA seeks to represent generally require two or more graduate years of education, rather than the one graduate year required for achieving a teaching credential.²³ Further,

²¹ 36 NLRB 134, 49 LRRM 1715 (1962).

²² Id. at 137, 49 LRRM at 1716.

²³ Education Code Section 13101 et seq. (Ryan Act), 5 California Administrative Code Section 5900 et seq., and guidelines prepared by the Commission for Teacher Preparation and Licensing, State of California, do not completely specify the number of semester or quarter academic units beyond an undergraduate degree required towards obtaining either a teaching or pupil personnel services credential. Each educational institution varies slightly in unit requirements although, pursuant to Education Code Section 13130, only one academic year is required for a teaching credential. For a pupil personnel services credential, the variance in unit requirements results in one-and-a-half to two academic years for counselors (e.g., U.C. Berkeley, 60 quarter units, Professional Preparation Program Plan, Pupil Personnel Services Credential, University of California, [1975]; UCLA, 36 to 40 quarter units, UCLA Graduate School of Education Announcement Issue, Graduate School of Education [1976]; University of Southern California, 40 semester units, Bulletin of the University of Southern California, School of Education [1976]; two years for school social workers (e.g., U.C. Berkeley, 60 Berkeley, 60 quarter units including Masters in Social Work, Professional Preparation Program Plan, Pupil Personnel Services Credential, University of California, School

this district does not require PBS employees, particularly counselors, to achieve tenure as teachers prior to moving into the counselor ranks as in the Los Angeles Unified School District.²⁴ Such differences are significant because they affect the wages and job security (termination, reassignment, and reinstatement rights) of these employees as compared to the teachers, which may be subject to the negotiations process.

I also find it curious that the majority opinion completely ignores the fact that, unlike in Los Angeles Unified, there is a complete separation of job functions between teachers and PPS employees; this omission is important especially because distinctions in job function have been considered important in previous decisions of this Board. For example, in Pittsburg Unified School District, we allowed a separate unit for instructional aides 'since their primary functions involve dealing directly with students either at the instructional or disciplinary level, whereas other classified employees are primarily charged with providing a physical environment for students.'²⁵ Pupil personnel services employees are totally non-instructional staff. There is no part-time teaching requirement of these employees as was the case in Los Angeles Unified. In each instance, counselors, social workers, psychologists and nurses perform basic guidance functions. They are responsible for the psychological, emotional and physical needs of students as they proceed to graduation; they advise in the selection of proper classes and placement, and they administer to the medical needs of specific pupils. The majority's reference to one

of Education, [1975]; UCLA, 74 quarter units, UCLA Graduate School of Social Welfare [1977]; University of Southern California, 48 to 52 semester units, Bulletin of University of So. Calif. School of Social Work, [1975], Calif. State University of Sacramento, 60 semester units, McClure, J., The School of Social Work Graduate Program, [1976]); and two to four years for school psychologists (e.g., U.C. Berkeley, Ph.D. program, Professional Preparation Program Plan, School Psychologists Credential, University of California, School of Education, [1976]; Calif. State University at Long Beach, 60 to 66 semester units, Form 7, [1976]; University of So. California, School of Education, [1976]; UCLA, 36 to 40 quarter units for Master of Arts degree plus 58 quarter units, UCLA School of Education Announcement Issue, Graduate School of Education [1976].

²⁴ Supra, note 1, at 4.

²⁵ EERB Decision No. 3, October 14, 1976, at 5. See also Sweetwater Union High School District and Fremont Unified School District, supra, note 4, where we have also noted as significant the difference between employees whose main responsibility is to provide a proper physical environment for the schools and employees whose primary function is to perform clerical and recordkeeping functions.

nurse's lecturing is atypical. Testimony showed that only this PPS employee performed such a function.

The distinction in job function between PPS employees and teachers is all the more important, as it is reflected in various aspects of their employment relationship with the district. For example, it is reflected in their work schedule. All PPS employees work a longer academic year than all teachers. Pupil personnel services employees work between six and 36 more days during the school year. On a daily basis, PPS staff work an hour longer. And as a matter of district policy in recognition of "the uniqueness of their individual assignments," they do not have preparation periods.

Similarly, the distinction in job function is reflected in the compensation the PPS staff receives. The regular school year salary of counselors, psychologists, and social workers is higher than that of teachers even though derived from the teachers' basic salary schedule; during the summer school session counselors are given a higher salary than teachers. And regarding nurses, they are on a separate schedule altogether. Lastly, there is no evidence that other PPS staff are paid on the basis of a ratio to placement factor, contrary to the majority's statement that there is.²⁶

Differences in primary job responsibilities also become obvious when considering the student workload of the two groups. PPS employees have a higher caseload. Counselors are responsible for 400 to 600 students. Psychologists and nurses have no set figures on actual caseload, but are responsible for schools with student populations of 1800 to 2600. Teachers, on the other hand, have a responsibility limited to approximately 150 students at the most. Further, because of their different job functions both groups of employees have a different work location and working environment. The PPS employees perform their services in office facilities separate from the classroom in which the teachers instruct.

An especially important distinction in job functions arises when counselors act as advocates on behalf of the students in consultation with their teachers. The record indicated that on occasions conflict has arisen between the two types of employees over the best educational or guidance course to pursue regarding a particular student.

²⁶ Documentary evidence submitted by the District applied the ratio to placement factor to the following positions: Teacher Specialist I, Teacher Specialist II, Catalog Librarian, Assistant Catalog Librarian, Media Specialist, Agriculture Teacher, Psychologist and Social Worker, Vocational Nurse (11 month and 10 month), Counselor, ASB Advisory, Behind-the-Wheel Driving Instructor. See also supra note 2.

